

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
KELVIN BESHEARS,
Defendant.

Case No. 20-cr-330-YGR

**ORDER REGARDING HEARING ON MOTION
TO DISMISS**

Re: Dkt. No. 58


The Court has reviewed the briefing in connection with defendant's motion to dismiss for failure to preserve evidence. (Dkt. No. 58.) At this juncture, the Court does not believe that an evidentiary hearing is necessary. Accordingly, the Court will hold a hearing on the motion without taking evidence on **Wednesday, August 11, 2021, at 9:00 a.m.**

Defense counsel should be prepared to address (1) what significance the enhanced security footage from Las Brumas, had the raw source files been obtained, would have for this case; (2) on what basis the Court could find bad faith in light of the availability of other recordings; and (3) why the available recordings are not comparable evidence. The Court will have the videos accessible so that they can be discussed in Court if necessary. Based on the arguments, the Court will consider whether an evidentiary hearing is, in fact, required.

With respect to Mr. Beshears's request to appear remotely at this Wednesday's hearing, the request is **DENIED**. The Court does not have access to video at Santa Rita Jail on Wednesday and therefore arranged to have Mr. Beshears brought to Court. Any request to be excused must be made in writing.

IT IS SO ORDERED.

Dated: August 9, 2021


YVONNE GONZALEZ ROGERS
United States District Judge